BOMBAY ACT No. VIII OF 1920.[1]

[THE BOMBAY SMOKE-NUISANCES (AMENDMENT) ACT, 1920.]

[*11th November, 1920.*]

An Act to amend the Bombay Smoke-nuisances Act, 1912.

WHEREAS it is expedient to amend the [2]Bombay Smoke-nuisances Act, 1912, in manner hereinafter appearing; It is hereby enacted as follows:— Bom. Act VII of 1912.

Short title.

1. This Act may be called the Bombay Smoke-nuisances (Amendment) Act, 1920.

Amendment of section 3 of Bom. VII of 1912.

2. Clause (*iii*) of the proviso to sub-section (*1*) of section 3 of the [2]Bombay Smoke-nuisances Act, 1912, hereinafter called "the said Act", shall be repealed. Bom. Act VII of 1912.

Amendment of section 11 of Bom. VII of 1912.

3. In section 11 of the said Act,

(*a*) in sub-section (*1*), the words "with the previous sanction of the Governor General in Council, and", and

(*b*) in sub-section (*2*), clause (*g*) shall be repealed.

BOMBAY ACT No. IX OF 1920.[3]

[THE BOMBAY VILLAGE PANCHAYATS ACT, 1920.]

[*11th November, 1920.*]

An Act to provide for the constitution of village panchayats.

WHEREAS it is expedient to give the inhabitants of certain small areas the opportunity of providing for the requirements of such areas in respect of water supply, sanitation and other works of public utility, with the object that they may be encouraged to take an interest in local self-government; And whereas the previous sanction of the Governor General required by section 79, sub-section (*2*), of the Government of India Act, 1915, has been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. 5, c. 61.

Short title.

1. (*1*) This Act may be called the Bombay Village Panchayats Act, 1920.

Extent.

(*2*) It extends to the whole of the Bombay Presidency.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the word "village" means any local area duly declared to be a village for the purposes of this Act;

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1920, Pt. V, p. 410; and for Proceedings in Council, *see ibid*, 1920, Pt. V, p. 649.

[2] *Supra.*

[3] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1919, Pt. V, p. 958; for Report of Select Committee, *see ibid*, 1920, Pt. V, p. 64; and for Proceedings in Council, *see ibid*, 1919, Pt. V, p. 1108; *ibid*, 1920, pp. 268, 744, 762 and 796.

(*b*) the word "prescribed" means prescribed by rules under this Act;

(*c*) the word "sar-panch" means the chairman of the panchayat elected in accordance with the provisions of section 12.

Declaration of area.

3. On application in writing being made either by the district local board after previous notice to the Collector or by the Collector after previous notice to the district local board the Commissioner may, by notification in the Bombay Government Gazette,—

(*a*) declare any local area to be a village for the purposes of this Act;

(*b*) declare that any area should be included in or excluded from a village; or

(*c*) cancel any such declaration.

Establishment of panchayat.

4. In every village a panchayat shall be established consisting of such number of persons not less than five as shall be determined by the district local board.

Members of panchayat.

5. The officiating patel, if any, or if there be more than one, the officiating revenue patel, or if there be more than one officiating revenue patel, the senior shall be *ex-officio* a member of the panchayat.

The president of the district local board shall in case of doubt or dispute decide who is the senior officiating revenue patel and his decision shall be final.

Save as aforesaid each member of the panchayat shall be elected.

Disqualifications.

6. No person may become or continue to be an elected member of a panchayat who—

(*a*) is a female, or

(*b*) is under twenty-one years of age, or

(*c*) does not ordinarily reside in the village, or

(*d*) has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, or has been ordered to find security for good behaviour under the [1]Code of Criminal Procedure, 1898, such sentence or order not having subsequently been reversed or remitted or the offender pardoned, and whose disqualification has not been removed by an order which the Governor in Council is hereby empowered to make, or

V of 1898.

(*e*) has been permanently debarred from practising as a legal practitioner by order of any competent authority, or

(*f*) has been adjudged by a competent Civil Court to be a lunatic, the adjudgment being still in force, or

[1]General Acts, Vol. V.

(*g*) has been adjudicated an insolvent by a competent Court and has not obtained his discharge, or

(*h*) has been removed from office under section 15 and whose disqualification has not been removed by an order which the district local board is hereby empowered to make.

A disqualification under clause (*d*) shall cease on the expiration of five years from the order of whipping or the termination of the period of imprisonment, transportation or security, as the case may be, and a disqualification under clause (*e*) shall cease on the expiration of five years from the date of the order.

Elections.

7. Subject to the foregoing provisions and to such rules as may be made by the Governor in Council, elections shall be made in each village by the adult male residents therein at a meeting presided over by the Assistant or Deputy Collector or other officer or person appointed in this behalf by the Collector and the result shall be reported by him to the Collector and the district local board.

Validity of elections.

8. If the Collector after enquiry is satisfied that any member has been elected in contravention of the provisions of section 6 or that any corrupt or irregular practice has been committed in connection with the election of any member which in the opinion of the Collector should invalidate such election, the Collector shall declare the election of such member to be invalid and such declaration shall be final.

New election if election invalid.

9. If the Collector shall declare the election of any member invalid, new election for the vacant seat shall be held in accordance with the foregoing provisions.

Term of office.

10. Members elected at a periodical election under this Act shall ordinarly hold office for a term of three years and shall be eligible for re-election.

Secretary.

11. Every panchayat shall appoint a secretary. Such appointment shall be subject to the approval of the district local board.

Sar-panch.

12. (*1*) The members of the panchayat shall elect one of themselves as sar-panch.

(*2*) The sar-panch shall ordinarily hold office for one year, but shall be eligible for re-election.

Procedure at meetings.

13. The procedure at a meeting of a panchayat shall be in accordance with rules made by the Governor in Council in this behalf.

Executive of panchayat.

14. The resolutions of the panchayat shall be carried out by the sar-panch, in whom the entire executive power of the panchayat shall be vested,

and who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act.

Removal of member, sar-panch, or secretary.

15. The district local board may after hearing the views of the panchayat remove any elected member or any sar-panch of a panchayat who is in its opinion unfit to be a member or sar-panch, as the case may be, or is persistently remiss in the discharge of his duties as such, and a sar-panch so removed may unless he be an *ex-officio* member of the panchayat, at the discretion of the said board, also be removed from the panchayat. The district local board may also remove the secretary of a panchayat for similar reasons.

Residence of member to be decided by Collector.

16. If any dispute arises as to whether a member does or does not ordinarily reside in the village such dispute shall be decided by the Collector after enquiry and his decision shall be final.

Vacancy due to disqualification, etc., of elected member.

17. (*1*) Any vacancy due to the disablement, death, resignation, disqualification or removal of an elected member shall be filled up as soon as convenient by the election held in accordance with the foregoing provisions of a person who shall hold office so long only as the member in whose place he is elected would have held it if the vacancy had not occurred.

(*2*) Any vacancy due to the disablement, death, resignation, disqualification or removal of a sar-panch shall be filled up as soon as convenient by the election of a member who shall hold office as sar-panch so long only as the sar-panch in whose place he is elected would have held it if the vacancy had not occurred.

(*3*) A sar-panch shall become disqualified if as a member of the panchayat he becomes disqualified.

Duties of panchayat.

18. (*1*) It shall be the duty of the panchayat within the limits of the fund at its disposal to make reasonable provision for carrying out the requirements of the village in respect of as many of the following matters as the district local board shall direct, *viz.* :—

(*a*) the supply of water for domestic use ;

(*b*) the cleansing of the public roads, drains, tanks and wells (other than tanks and wells used exclusively for irrigation) and other public places or works in the village ;

(*c*) the construction, maintenance and repair of minor roads, drains and bridges : provided that such works shall not be undertaken without the permission of the person or authority in whom or in which the road, drain or bridge vests ;

(*d*) sanitation, conservancy and the prevention and abatement of nuisances ;

(*e*) the preservation and improvement of the publi: health ;

(*f*) the maintenance and the regulation of the use of public buildings vesting in the panchayat, grazing lands, tanks and wells (other than tanks and wells used exclusively for irrigation) ; and

(*g*) the lighting of the village.

(*2*) The panchayat may also make provision for carrying out the requirements of the village in respect of any other matters approved by the district local board.

Additional duties.

19. The district local board may at any time, with the consent of the panchayat, transfer to such panchayat the management of any institution or the execution of any work not provided for in section 18, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution of such work : provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the district local board.

Other duties.

20. (*1*) The panchayat shall, subject to rules made by the district local board under this Act,—

(*a*) supervise the village school ;

(*b*) supervise the labour employed by local boards on works within the village ;

(*c*) manage and maintain cattle pounds ;

(*d*) perform such other administrative duties as may from time to time be assigned to it by the Governor in Council by notification in the Bombay Government Gazette.

(*2*) Rules made by the district local board under this section shall be made within six months from the passing of this Act. If not made within that period, it shall be open to the Governor in Council to make rules in this behalf.

Property of panchayat.

21. (*1*) It shall be competent to the district local board from time to time to direct that any property vesting in the district local board shall vest in a panchayat.

(*2*) Every work constructed by a panchayat shall vest in such panchayat.

Schedule of servants.

22. The panchayat shall, subject to the provisions of section 32, determine and submit to the district local board a schedule of the number and salaries of its servants required for carrying out the duties imposed upon the panchayat by or under this Act.

Appointment of servants.

23. (*1*) The sar-panch shall appoint the servants of the panchayat and pay their salaries from th funds at his disposal. He may also in cases of

emergency engage such temporary servants as he may deem necessary. The sar-panch may from time to time by a written order fine, suspend or dismiss any servant appointed by him.

(2) No appeal shall lie against any order passsd under this section other than an appeal to the panchayat against an order of dismissal.

Budget.

24. (1) The panchayat shall determine annually and shall submit to the district local board on or before such date and in such form as may be prescribed by the district local board a statement of—

(a) the opening balance and estimated income of the village fund for the following year ;

(b) the expenditure proposed on establishment and the discharge of the duties specified in sub-section (1) of section 18 ;

(c) the expenditure proposed under sub-section (2) of section 18.

(2) The district local board shall within two months from the date of the receipt of such statement either approve the same or direct that the proposed expenditure on any of the duties specified in section 18 shall be increased or decreased : provided that the district local board shall not have power to direct that the total proposed expenditure shall exceed the estimated income of the village fund for the following year.

Village fund.

25. For each village there shall be at the disposal of the panchayat a village fund and there shall be placed to the credit thereof —

(a) any amount which may be allotted to the village fund by the Governor in Council under the provisions of section 191 of the [1] Bombay District Municipal Act, 1901 ;

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(b) the proceeds of any tax imposed under section 26 or section 27 ;

(c) all fines realized in prosecutions for breaches of the by-laws made under this Act ;

(d) all other sums ordered by a Court to be placed to the credit of the village fund ;

(e) the sale proceeds, except in so far as any person is entitled to the whole or a portion thereof, of all dust, dirt, dung, or refuse (including the dead bodies of animals) collected by the village servants ;

(f) sums contributed to the village fund by a district local board ;

(g) all sums received by way of loans from Government or by way of gift ;

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(*h*) such other sums as may be assigned to the village fund by any general or special order of the Governor in Council; and

(*i*) the income of any property vesting in the panchayat under section 21.

House tax.

26. In every village a house tax shall be levied in accordance with rules made by the Governor in Council.

Additional taxation.

27. (*1*) Subject to the veto of the Governor in Council a panchayat may, with the approval of and in accordance with rules made by the district local board, levy any tax upon the owners or occupiers of houses or lands within the limits of the village. Any such owner or occupier may appeal against the assessment or levy of any such tax to the district local board whose decision shall be final.

(*2*) Subject to such veto a panchayat may with such approval and in accordance with such rules impose an octroi.

Any resident of the village may appeal against the imposition of such octroi to the district local board whose decision shall be final.

Increase of income.

28. (*1*) If at any time in the opinion of the district local board the regular income of the panchayat falls below what is necessary for the proper discharge of the duties specified in section 18, the district local board may call upon the panchayat to take steps within six months to increase its income to such a figure as it considers necessary. If the panchayat fails to take adequate steps to increase its income to the required amount, the district local board may require it to increase the house tax:

Provided that in no circumstances shall the district local board have power to require the house tax to be increased beyond the maximum rate prescribed by the Governor in Council.

(*2*) Any panchayat may appeal to the Commissioner against the enhancement of its income and no action shall be taken by the district local board to effect such enhancement until the appeal has been decided.

Recovery of taxes.

29. (*1*) On any person failing to pay any tax or instalment thereof or any due on or before the specified date of payment, the panchayat shall cause a writ of demand to be served on the defaulter and, if payment is not made within 15 days from such service, may levy such sum by distraint and sale of his movable property.

(*2*) If the panchayat either fails to recover the taxes or fines due to it or neglects to take action under the provisions of the preceding sub-section or of sub-section (*4*) of section 41, the district local board may request the Collector to recover the same as an arrear of land revenue, and the Collector may, after holding such enquiry, if any, as he thinks fit, proceed to do so.

Bom. Act I of 1884

30. Notwithstanding anything in the [1]Bombay Local Boards Act, 1884, the district or taluka local board may assign a portion of the local fund to a panchayat for expenditure in connection with the provisions of this Act. Bombay Local Boards Act.

Power of inspection.

31. (*1*) The district local board shall have power—

(*a*) to enter on and inspect, or cause to be entered on and inspected any immovable property occupied by any panchayat, or any work in progress under it or under its direction;

(*b*) to call for any extract from the proceedings of a panchayat, any book or document in the possession of or under the control of a panchayat and any return, statement, account or report which it may think fit to require such panchayat to furnish;

(*c*) to require a panchayat to take into consideration any objection which appears to the district local board to exist to the doing of any thing which is about to be done or is being done by such panchayat, or any information which the district local board is able to furnish and which appears to it to necessitate the doing of a certain thing by the panchayat, and to make a written reply to the district local board within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

(*2*) All or any of the powers given to the district local board under the preceding sub-section may be delegated by it to its president, vice-president, chief officer, public health officer or executive engineer.

Extravagance in establishment.

32. If in the opinion of the district local board the number of persons maintained or proposed to be maintained by a panchayat as officers or servants or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on the requirement of the district local board, reduce such number or remuneration:

Provided that the panchayat may appeal against any such requirement to the Governor in Council, whose decision shall be final.

Suspension of execution of order.

33. (*1*) If in the opinion of the district local board the execution of any order or resolution of a panchayat or the doing of anything which is about to be done or is being done by or on behalf of a panchayat is causing, or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, it may, by order in writing, under the signature of its president, suspend the execution or prohibit the doing thereof.

(*2*) When a district local board makes any order under the preceding sub-section, it shall forthwith forward to the Governor in Council and to the panchayat affected thereby a copy of the order with a statement of the reasons for making it, and it shall be in the discretion of the Governor in Council to

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rescind the order, or to direct that it continue in force, with or without modification, permanently or for such period as he may think fit.

Execution of work in case of emergency.

34. (*1*) In cases of emergency the district local board may provide for the execution of any work, or the doing of any act, which a panchayat is empowered to execute or do, and the immediate execution or doing of which is, in its opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, shall be forthwith paid by the panchayat.

(*2*) If the expense is not so paid, the district local board may direct the officer in charge of the treasury in which the village fund is kept to pay such expense, or as much thereof as is possible, from the balance of such fund in his hands.

(*3*) The district local board shall forthwith report to the Governor in Council every case in which it uses the powers given to it by sub-section (*1*).

Performance of duty.

35. (*1*) If at any time it appears to the district local board that a panchayat has made default in the performance of any duty specified in section 18, it may order the duty to be performed within a specified period and, if the duty is not performed within the period specified, it may appoint some person to perform it and direct that the expense of performance shall be paid by the defaulting panchayat within such period as the district local board may fix.

(*2*) If the expense is not so paid, the district local board may direct the officer in charge of the treasury in which the village fund is kept to pay such expense, or as much thereof as is possible, from the balance of such fund in his hands.

(*3*) The district local board shall forthwith report to the Governor in Council every case in which it uses the powers given to it by sub-section (*1*).

Supersession of panchayat.

36. (*1*) If in the opinion of the Governor in Council a panchayat exceeds or abuses its powers or makes persistent default in the performance of the duties specified in section 18, the Governor in Council may, after reference to the district local board, by an order in the Bombay Government Gazette, supersede such panchayat for a period specified in the order.

(*2*) When a panchayat is so superseded,

(*a*) all members thereof shall vacate their offices as members as from the date of the communication of the orders to the sar-panch;

(*b*) all powers and duties of the panchayat shall, during the period of supersession, be exercised and performed by such person or persons as the district local board may from time to time appoint in that behalf; and

(*c*) on the expiry of the period of supersession the panchayat shall be reconstituted and the persons vacating their offices under clause (*a*) shall be eligible for re-election.

Authority of Governor in Council.

37. In all matters connected with this Act, the Governor in Council shall have and exercise the same authority and control over the district local boards as he has and exercises over them under the [1]Bombay Local Boards Act, 1884.

Bom. Act I of 1884.

By-laws.

38. (*1*) The district local board may, with the previous sanction of the Governor in Council, make by-laws providing for—

(*a*) the purification and protection from pollution of all sources of water used for drinking purposes;

(*b*) the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source where such removal or use causes, or is likely to cause, disease or injury to health and the prevention of such removal or use by the filling in or covering over of such tank or well or by any other method which may be considered advisable;

(*c*) the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience;

(*d*) the regulating of offensive callings or trades;

(*e*) the disposal of corpses by burning or burial;

(*f*) the excavation of earth and the filling up of excavations and depressions injurious to health or offensive to the neighbourhood;

(*g*) the removal of noxious vegetation;

(*h*) the repair and removal of dangerous or ruinous buildings;

(*i*) the prevention of the erection of buildings without adequate provision for ventilation or the laying out and location of streets;

(*j*) the regulation of markets and slaughter-houses; and

(*k*) the general regulation of sanitation and conservancy;

and may with the like sanction provide a penalty not exceeding ten rupees for a breach of any such by-law.

(*2*) All or any of these by-laws may be applied to any village by the district local board.

(*3*) The making of such by-laws shall be subject to the condition of previous publication.

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Trial for breaches of by-laws by panchayat.

39. (*1*) Every breach of a by-law made under this Act shall, unless the District Magistrate otherwise directs, be cognizable by the panchayat.

(*2*) The panchayat shall in the presence of the accused person, or if notwithstanding the service of a notice upon the said person he fails to appear, then in his absence, take evidence as to the alleged breach and any evidence produced by the said person in his defence and shall thereupon either acquit or convict the accused person and, if he is convicted, the panchayat may sentence him to such punishment authorised by this Act or by the by-laws as it thinks reasonable.

(*3*) No advocate, attorney, pleader, vakil or mukhtiar shall appear before a panchayat on behalf of an accused person.

(*4*) A person convicted by the panchayat may, at any time within ten days after sentence is passed against him, apply for revision to the District Magistrate or to such other Magistrate, not being a member of such panchayat, as the District Magistrate may, subject to the orders of the Governor in Council, from time to time appoint in this behalf.

(*5*) In revision the Magistrate may confirm, reverse or modify the decision of the panchayat and may pass any order as to punishment which it was competent to the panchayat to pass; his order shall be enforced in like manner as one made by the panchayat.

(*6*) Such Magistrate may suspend execution of the sentence pending disposal of the application when such suspension shall appear to him necessary or expedient, on such terms as he may think fit.

Trial by Magistrate.

40. Where the District Magistrate by a special or general order so directs, any breach of such by-laws shall not be cognizable by a panchayat under section 39 but shall be cognizable by any Magistrate and punishable as provided in this Act.

Punishment.

41. (*1*) A breach of any by-law made under this Act shall be punishable, unless in any case a smaller punishment is provided in such by-laws, with fine which may extend to ten rupees and in the case of a continuing breach with fine which may extend to two rupees for every day during which the breach continues after conviction for the first breach or after receipt of notice from the panchayat to discontinue the breach.

(*2*) A person convicted by a Magistrate of a breach or a continuing breach may be sentenced in default of payment of the fine to simple imprisonment for a period which may extend to four days.

(*3*) A panchayat may allow a person sentenced by it to pay a fine such time not exceeding four days as it may think proper for the payment of the

fine, on such terms as to security as it shall seem to the panchayat necessary to impose.

(*4*) Fines inflicted by a panchayat shall be recoverable by distraint and sale of the offender's movable property. If the amount of the fine is not fully recovered, the panchayat may apply to a Magistrate to recover the fine or such part thereof as has not been recovered and the Magistrate shall proceed to recover the same as if the fine had been imposed by himself.

Rules.

42. (*1*) The Governor in Council may by notification in the Bombay Government Gazette make rules—

(*a*) under section 7, regulating the elections of members of panchayats;

(*b*) under section 13, regulating the procedure at a meeting of a panchayat, providing for the casting vote of the sar-panch, and fixing a quorum;

(*c*) under section 20, on default by the district local board, regulating the performance by panchayats of the duties therein referred to;

(*d*) under section 26, regulating the levy of a house-tax;

(*e*) under section 28, fixing a maximum rate of house-tax.

(*2*) The district local board may, with the previous sanction of the Governor in Council, make rules to carry out the objects of this Act except in the cases provided for in sub-section (*1*); in particular and without prejudice to the generality of the foregoing provision, such rules may be made—

(*a*) under section 20, regulating the performance by panchayats of the duties therein referred to;

(*b*) under section 24, fixing a time limit for submitting and the form of the statement therein referred to;

(*c*) under section 27, regulating the levy of additional taxation.

The making of such rules shall be subject to the condition of previous publication.

Delegation of powers.

43. The Governor in Council may by notification authorise any person to exercise any of the powers vested in him or conferred on district local boards in respect of panchayats by this Act and may at any time in like manner modify or cancel such authority.

Balance of village fund.

44. On any area ceasing to be a village the unexpended balance of the village fund and the property vesting in the panchayat shall vest in the district local board and shall be utilized for the benefit of the inhabitants of the area as the district local board may think fit.